

IN THE HIGH COURT OF JUDICATURE AT BOMBAY

O.O.C.J.

APPEAL NO.162 OF 2007

IN

NOTICE OF MOTION NO.3490 OF 2004

IN

SUIT NO.2135 OF 2001

...

Sandeep G. Raheja ...Appellant

v/s.

Chandru L. Raheja & ors. ...Respondents

...

Mr.Janak Dwarkadas Sr.Counsel with Mr.P.K.Samdhani,
Sr.Counsel and Mr.Simil Purohit i/b
Mr.K.D.Abhichandani for the Appellant.

Dr.Virendra V. Tulzapurkar, Sr.Counsel with
Mrs.Hemlata Jain i/b Wadia Gandhi & Co. for
Respondent No.1.

Mr.Devesh Chambhuwala with Mr.Anil Agarwal for
Respondent No.2.

Mr.F.E.Devitre, Sr.Counsel i/b Humaranwala & Co. for
Respondent No.5.

Ms.Deepali Bhalekar i/b M/s.Bilawala & Co. for
Respondent No.7.

Mr.C.U.Singh for Respondent No.6.

Mr.A.Y.Bookwala, Sr.Counsel with Mr.H.N.Thakore i/b
Thakore Zariwala & Associates for Respondent No.9.

...

CORAM: D.K.DESHMUKH &

J.H.BHATIA, JJ.

DATED: 18TH OCTOBER, 2007

P.C.:

1. Heard the learned Counsel for both sides in
detail. The Defendant No.9 who is presently the
assignee of the suit property, because of conveyance

dated 4-6-2004, has expressed willingness to file an undertaking in this court, because of the fact that the conveyance of the property in his favour is subject to the result of this suit, to the following effect.

. That any development that he may carry on on the land conveyed to Defendant No.9 under conveyance dated 4-6-2004 shall be at his own costs and risk and shall be subject to the result of this suit, and that Defendant No.9 or anybody claiming through him shall not claim any equity in relation to the development that may be carried out on the land during the pendency of the suit and that if the court so directs any construction or development carried out on the land will be removed as per the directions of the Court.

. That any third party rights that may be created by the Defendant No.9 in the property shall also be subject to the result of the suit and the persons in whose favour third party rights are created will also be clearly informed that the rights created in their favour are subject to the result of the suit.

2. The learned Counsel for the Defendant No.9 further states that undertaking to the above effect of an officer who will be authorised by the Defendant No.9-company to do so shall be filed in this court within a period of two weeks from today.

The statement is accepted.

2. In our opinion, the undertaking that the Defendant No.9 is willing to file, will adequately protect the interest of the Appellant and therefore it is not necessary to modify or set aside the order impugned in the Appeal.

3. Appeal disposed of.

4. If as a consequence of the undertaking Defendant No.5 is entitled to any modification in the order impugned in the Appeal, Defendant No.5 shall be free to move the learned single Judge.

(D.K.DESHMUKH, J.)

(J.H.BHATIA, J.)